

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

PLYMOUTH COUNTY RETIREMENT)
ASSOCIATION, on Behalf of)
Itself and All Others)
Similarly Situated,)

Plaintiff(s),)

v.)

1:11CV1068

PRIMO WATER CORPORATION,)
BILLY D. PRIM, MARK)
CASTANEDA, DAVID J. MILLS,)
RICHARD A. BRENNER, DAVID W.)
DUPREE, MALCOLM McQUILKIN,)
DAVID L. WARNOCK, JACK C.)
KILGORE, CULLIGAN)
INTERNATIONAL COMPANY,)
ANDREW J. FILIPOWSKI,)
CARL V. SANTOIERMMO, STIFEL,)
NICOLAUS & COMPANY, INC.,)
BB&T CAPITAL MARKETS,)
JANNEY MONTGOMERY SCOTT LLC,)
and SIGNAL HILL CAPITAL)
GROUP LLC,)

Defendants.)

ORDER APPOINTING LEAD PLAINTIFF AND COUNSEL

This matter is before the court on the motion of Employees' Retirement System of the Government of the Virgin Islands ("VI Retirement System") to be appointed lead Plaintiff and to approve its selection of counsel. (Doc. 32.) Plaintiff Plymouth County Retirement Association supports the requested appointment as lead Plaintiff. (Doc. 33 at 1 n.1.) Defendants take no position on the court's appointment of either the lead Plaintiff or its counsel but

reserve their rights to later challenge, among other things, the adequacy of any lead Plaintiff and the typicality of its claims. (Docs. 35, 38.)

The Private Securities Litigation Reform Act of 1995 ("PSLRA") imposes notice requirements on plaintiffs and provides guidance to courts in selecting lead plaintiffs. The notice must be published in "a widely circulated national business-oriented publication or wire service." 15 U.S.C. § 78u-4(a)(3)(A)(i). The notice must inform the purported class of the pendency of the action, the claims asserted, and the purported class period, as well as the right of any member of the purported class to move to serve as lead plaintiff not later than 60 days after the date the notice is published. Id. The notice published through the *Business Wire* (Doc. 34-1) satisfies this requirement.

Under statute, the court "shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (. . . the 'most adequate plaintiff')." 15 U.S.C. § 78u-4(a)(3)(B)(i). The PSLRA creates a rebuttable presumption that the most adequate plaintiff is one who (1) filed the complaint or made a motion in response to the notice, (2) in the determination of the court has the largest financial interest in the relief sought by the class, and (3) otherwise satisfies the

requirements of Rule 23 of the Federal Rules of Civil Procedure. Id. § 78u-4(a)(3)(B)(iii)(I).

The court finds that the VI Retirement System satisfies the requirements to be the most adequate plaintiff to adequately represent the interests of the class members for purposes of Section 78u-4(a)(3)(B) and should be appointed lead Plaintiff. The VI Retirement System moved for appointment and, based on the record, appears to have the largest financial interest in the relief sought by the class and otherwise satisfies the requirements of Rule 23 of Federal Rule of Civil Procedure. No other movant has adequately rebutted the presumption by showing that the VI Retirement System "will not fairly and adequately protect the interests of the class" or "is subject to unique defenses that render such plaintiff incapable of adequately representing the class." Id. § 78u-4(a)(3)(B)(iii)(II).

The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class. Id. § 78u-4(a)(3)(B)(v). VI Retirement System seeks approval of the appointment of Robbins Geller Rudman & Dowd LLP as lead counsel and McDaniel & Anderson, LLP, as liaison counsel. The court, based on the record submitted, finds no reason to withhold approval of this request.

Based on the representations to the court and for good cause

shown,

IT IS ORDERED that the Motion for Appointment as Lead Plaintiff and Approval of Selection of Counsel (Doc. 32) is GRANTED, and VI Retirement System is appointed lead Plaintiff, pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(iii).

IT IS FURTHER ORDERED that lead Plaintiff's selection of Robbins Geller Rudman & Dowd LLP as lead counsel and McDaniel & Anderson, LLP, as liaison counsel is APPROVED, pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v).

/s/ Thomas D. Schroeder
United States District Judge

April 13, 2012